

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:18-CR-452-1-FL

UNITED STATES OF AMERICA,)
)
 v.) RESPONSE IN OPPOSITION
) TO DEFENDANT'S MOTION
LEONID ISAAKOVICH TEYF,) TO DISMISS

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, hereby responds in opposition to defendant's Motion to Dismiss certain counts of the Third Superseding Indictment. D.E. 237.

On May 9, 2019, the grand jury returned a Fourth Superseding Indictment. The Fourth Superseding Indictment ["Indictment"] fully apprises the defendant of the violations of law which he is alleged to have committed, and the indictment alleges the essential elements of the charged offense(s). See United States v. Pupo, 841 F.2d 12365, 1238-39 (4th Cir. 1988) and United States v. Daniels, 973 F.2d 272, 275 (4th Cir. 1992). The Indictment alleges, among other things, that:

TEYF and others devised a scheme and artifice that prior to granting a subcontractor the work for Voentorg, the subcontractor had to agree that a certain percentage of the government funds which it would receive for completion of the work would be paid back to TEYF and others involved in that scheme and artifice. These kickbacks of government funds were paid in cash and amounted to more than \$150,000,000 over an approximate two-year span. Most of the kickbacks were paid by TEYF to Defense Minister Serdyukov, with TEYF retaining the next largest share, and the remaining amount to be paid to other co-conspirators. Some of the monies were placed in various accounts over which TEYF had control. Some of the monies belonging to TEYF were transferred to accounts outside of Russia, and ultimately into accounts located in the United States.

Indictment, ¶ 8.

Moreover, the Indictment alleges in part violations of 18 U.S.C. §§ 1956 and 1957:

to wit: to knowingly conduct and attempt to conduct financial transactions affecting interstate commerce and foreign commerce, which transactions involved the proceeds of a specified unlawful activity, that is, an offense against a foreign nation (Russia) involving bribery of a public official and the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official . . .

Indictment, ¶¶ 19, 20, 23, and 65, concerning Counts One, Two through Twenty-Six, and Thirty-Three through Forty-Three.

The factual predicate above, and the formulation of the allegation of the specified unlawful activity in conjunction with the rest of the Indictment, properly “contain[] the elements of the offense intended to be charged, and sufficiently apprises the defendant of what he must be prepared to meet,” as well as establishing of record the “extent he may plead a former acquittal of conviction” should “any other proceedings be taken against him for a similar offense.” Russell v. United States, 369 U.S. 749, 763-64 (1962).

The Indictment validly charges defendant with crimes and is consistent with both his Fifth and Sixth Amendment rights. The defendant’s motion to dismiss should be denied.

Respectfully submitted, this 13th day of May, 2019.

ROBERT J. HIGDON, JR.
United States Attorney

/s/ Barbara D. Kocher

BY: JASON M. KELLHOFER

BY: BARBARA D. KOCHER

Assistant United States Attorney

Criminal Division

310 New Bern Avenue, Suite 800

Raleigh, NC 27601-1461

Telephone: (919) 856-4530

Facsimile: (919) 856-4828

Email: barb.kocher@usdoj.gov

N.C. State Bar #16360

CERTIFICATE OF SERVICE

This is to certify that I have this 13th day of May, 2019, served a copy of the foregoing filing upon counsel for the defendant in this action by electronic communication.

Benjamin F. Leighton
Moore & Van Allen PLLC
100 North Tryon Street, Suite 4700
Charlotte, NC 28202-4003

James P. McLoughlin, Jr.
Moore & Van Allen
100 N. Tryon St., Suite 4700
Charlotte, NC 28202-4003

Nathan A. White
Moore & Van Allen PLLC
100 North Tryon Street, Suite 4700
Charlotte, NC 28202-4003

/s/ Barbara D. Kocher

BY: BARBARA D. KOCHER
Assistant United States Attorney
Criminal Division
310 New Bern Avenue, Suite 800
Raleigh, NC 27601-1461
Telephone: (919) 856-4530
Facsimile: (919) 856-4828
Email: barb.kocher@usdoj.gov
N.C. State Bar #16360